REMARKS/ARGUMENTS

In response to the office action of March 14, 2007, Applicant has amended the claims, which when considered with the following remarks, is deemed to place the present application in condition for allowance. Favorable consideration of all pending claims is respectfully requested.

In the office action, the examiner has rejoined the claims of group II with elected Group I. Claims 5, 6 and 18-16 have been withdrawn from further consideration as drawn to a non-elected invention.

Claims 6 and 17-18 are objected to for being drawn to non-elected subject matter. As presently amended, claims 17-18 no longer depend from withdrawn claims 5 or 6, but rather depend from elected claims 1-4. Withdrawal of the objection to claims 6 and 17-18 is therefore warranted.

Claims 3 and 4 have been rejected under 35 U.S.C.§ 101 as claiming the same invention as that of claims 2 and 3 of U.S. Patent No. 5,670,318 (hereinafter the '318 patent'). Claim 3 has been amended to recite: "A phamaceutical composition for administration to an animal subject comprising a therapeutically effective amount of an antisense molecule comprising the nucleotide sequence set forth in SEQ ID NO:3, said sequence complementary to nucleotides 156-185 of BC200 RNA, admixed with a pharmaceutically acceptable carrier." Claim 4 has been amended to recite: "A pharmaceutical composition for administration to an animal subject comprising a therapeutically effective amount of an isolated antisense molecule comprising the nucleotide sequence set forth in SEQ ID NO:4, said sequence complementary to nucleotides 158-178 of BC200 RNA, admixed with a pharmaceutically acceptable carrier." Since presently amended claims 3 and 4 are distinguished from claims 2 and 3 of the '318 patent, the statutory double patenting rejection should be withdrawn.

Claims 1, 2, 7 and 17-19 have been rejected on the ground of non-statutory obviousness-type double patenting as allegedly unpatentable over claims 1-7 of the '318 patent

in view of Eley et al. (1995) "Preparation of Nonradioactive DNA probes" in *Methods in Molecular Biology*, Vol. 46, pp. 201-211, Humana Press, ISSN 1064-3745.

Claim 1 has been amended to recite: "A pharmaceutical composition for administration to an animal subject comprising a therapeutically effective amount of an antisense molecule targeted to the sequence set forth in SEQ ID NO:1 admixed with a pharmaceutically acceptable carrier." Claim 2 has been amended to recite: "A pharmaceutical composition for administration to an animal subject comprising a therapeutically effective amount of an antisense molecule targeted to the sequence set forth in SEQ ID NO:2 admixed with a pharmaceutically acceptable carrier." Claim 17 has been amended to recite: "A kit comprising a therapeutically effective amount of an antisense molecule for administration to an animal subject of any one of claims 1-4 and a pharmaceutically acceptable carrier." Claim 18 has been amended to recite: "The kit of claim 17 wherein the therapeutically effective amount of the antisense molecule for administration to an animal subject is packaged separately from the pharmaceutically acceptable carrier."

Looking properly only at the claims of the '318 patent, the subject matter of amended claims 1, 2, 7, 17 and 18 cannot be considered obvious variants of the subject matter of claims 1-7 of the '318 patent. That is, the pharmaceutical compositions of presently amended claims 1, 2 and 7 comprising therapeutically effective amounts of the sequences recited therein for administration to an animal subject, admixed with a pharmaceutically acceptable carrier, as well as kits comprising the same (claims 17-18) are not obvious variants of the probes recited in claims 1-7 of the '318 patent . The rejection of claims 1, 2, 7 and 17-19 on the grounds of non-statutory obviousness-type double patenting should therefore be withdrawn.

Claims 1-4 have been rejected under 35 U.S.C. §102(b) as allegedly anticipated by Tiedge et al (the '318 patent). As presently amended, claims 1-4 recite pharmaceutical compositions for administration to an animal subject, comprising therapeutically effective amounts of the various antisense molecules recited therein. Support for the amendments to claims 1-4 may be found throughout the specification, e.g., pages 34-36 of PCT/US2003/035897 (WO 2004/058939). The '318 patent does not teach pharmaceutical compositions for

administration to an animal subject comprising therapeutically effective amounts of the antisense molecules recited in claims 1-4. As such, presently amended claims 1-4 are distinguished from the teaching of the '318 patent and withdrawal of the rejection under 35 U.S.C. §102(b) is warranted.

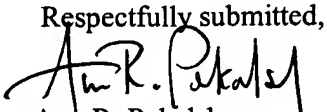
Claims 7 and 17-19 have been rejected under 35 U.S.C. 103(a) as allegedly obvious over the '318 patent as applied to claims 1-4 under the section 102(b) rejection and further in view of Eley et al. (1995) "Preparation of Nonradioactive DNA probes" in *Methods in Molecular Biology*, Vol. 46, pp. 201-211, Humana Press, ISSN 1064-3745. Claim 7 has been canceled without prejudice. Applicant respectfully traverses the rejection as applies to claims 17-19 for the following reasons.

There is nothing in the '318 patent or Eley et al., taken alone or in combination, that would have suggested to one skilled in the art at the time the invention was made, that the antisense molecules of claims 17-19 could, or should be formulated into pharmaceutical compositions for administration to an animal subject, comprising therapeutically effective amounts of such antisense molecules. Both the '318 patent and Eley et al. are concerned with preparation of sequences for use as probes in detecting complementary sequences for diagnostic purposes. In contrast, the present invention is based on the discovery that the antisense molecules recited in the presently amended claims, are valuable in treating disease. Since there is no recognition in the cited references, taken alone or in combination, that the presently claimed antisense molecules are useful for treating disease, the kits of presently amended claims 17-18 and claim 19, comprising therapeutically effective amounts of the antisense molecules of claims 1-4, for administration to an animal subject, and a pharmaceutically acceptable carrier, would not have been obvious. Accordingly, withdrawal of the rejection of claims 17-19 under 35 U.S.C. §103(a) is respectfully requested.

Finally, Applicant has added new claim 20 which recites: "The pharmaceutical composition of any one of claims 1-4 wherein the animal subject is human." Support for new claim 20 may be found throughout the specification, e.g., page 34, lines 10-13 of PCT/US2003/035897 (WO 2004/058939).

In view of the foregoing remarks and amendments, it is respectfully submitted that the present application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



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